

IN THE UNITED STATES DISTRICT COURT
THE DISTRICT OF DELAWARE

WAYNE VAN SCOY	:	
	:	
PLAINTIFF	:	C.A.NO. 05-108-KAJ
	:	
V.	:	
	:	
VAN SCOY DIAMOND MINE OF	:	
DELAWARE, INC., :	:	
KURT VAN SCOY AND	:	
DONNA VAN SCOY	:	
	:	
DEFENDANTS	:	
	:	
	:	
	:	

**AMENDED NOTICE OF DEPOSITION PURSUANT TO
F.R.CIV.P. RULE 30(b)(6) CONTINUING DEPOSITION**

To: Defendant Van Scoy Diamond Mine of Delaware, Inc.

c/o Sharon Oras Morgan, Esquire
Fox Rothschild LLP
Suite 1300
919 N. Market Street
Wilmington, DE 19801
smorgan@foxrothschild.com
fpileegi@foxrothschild.com

c/o Charles Quinn, Esquire
Fox Rothschild LLP
2000 Market Street
Tenth Floor
Philadelphia, PA 19103-3291
cquinn@foxrothschild.com

TAKE NOTICE that Plaintiff, Wayne Van Scoy will take the deposition of Defendant **Van Scoy Diamond Mine of Delaware, Inc.** through one or more, officers, directors or managing agents or other persons who consent to testify on its behalf with respect to the subject matter set forth below, at the offices of **Ashby & Geddes**, 17th Floor, 222 Delaware Avenue, Wilmington, DE 19899, beginning at **10:00 AM on Monday October 3, 2005**, which date had been agreed upon between the parties, and will continue until complete. (This is a continuance of the deposition originally noticed on September 14, 2005). The deposition testimony will be recorded stenographically and by videotape (sound and visual). The subject matter on which Defendant Van Scoy Diamond Mine of Delaware, Inc. shall designate person or persons most knowledgeable to testify on its behalf include the following.

1. Alleged permission to use of the marks by the corporation.
2. Use of the marks including, but not limited to, use on sales receipts and the blocking out of "MINE" on Van Scoy Diamond Mine of Delaware, Inc. sales receipts.
3. Nature of retail store operations, 1994 to present.
4. Financial information from 1994 to present, including advertising expenses, profits, gross receipts and expenses and separately for the period of November 18, 2004 to present including gross receipts, profits, expenses and expenses by category.
5. Alleged use by others of the marks and the basis of such use and any infringement.
6. Van Scoy Diamond Mine of Delaware, Inc.'s counterclaims and defenses in this action.
7. The sales area of the corporation.
8. Internet websites at vanscoydiamondmine.com and vanscoydiamondsofdelaware.com, and the date of change from first to second.
9. Knowledge that the marks were federally registered and infringement thereof by use of the marks and variations thereof.
10. Knowledge relating to the bankruptcy proceeding of Tommy Van Scoy, Sr.
11. With respect to the blocking out of "MINE" on Van Scoy Diamond Mine of Delaware, Inc. sales receipts, produce the person most knowledgeable.
12. Operation of Van Scoy Diamond Mine of Delaware, Inc. including corporate

meetings.

13. Any and all opinions of counsel and documents related thereto on which Defendants will rely at trial

Counsel are invited to attend and take part as permitted by the Rules.

Pursuant to F.R.Civ.P. 34, you are requested to produce for inspection, use as an exhibit and copying at the time of deposition:

1. Any documents or things not previously produced to which the persons designated by Defendant Van Scoy Diamond Mine of Delaware, Inc. has referred to, will refer to or discuss in connection with the foregoing areas of subject matter listed above.

2. Any and all opinions of counsel and documents related thereto on which Defendants will rely at trial.

ASHBY & GEDDES

/s/ John G. Day

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John G. Day (I.D. #2403)
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Dated: September 26, 2005

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CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of September, 2005, the attached **AMENDED NOTICE OF DEPOSITION PURSUANT TO F.R.CIV.P. RULE 30(b)(6) CONTINUING DEPOSITION** was served upon the below-named counsel of record at the address and in the manner indicated:

Francis G.X. Pileggi, Esquire
Sharon Oras Morgan, Esquire
Fox Rothschild LLP
Citizen Bank Center
919 North Market Street
Suite 1300
Wilmington, DE 19801-2323

HAND DELIVERY

Charles N. Quinn, Esquire
Fox Rothschild LLP
2000 Market Street
Tenth Floor
Philadelphia, PA 19103

VIA ELECTRONIC MAIL

/s/ John G. Day

John G. Day